

House Bill 1351

By: Representative Smith of the 113th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated,
2 relating to dispossessory proceedings, so as to provide that after a demand for past due rent,
3 a landlord may secure the premises and bar the tenant from entry; to provide that the tenant
4 may regain possession by paying rent dues; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to
9 dispossessory proceedings, is amended by revising Code Section 44-7-50, relating to demand
10 for possession and procedure upon tenant's refusal, as follows:

11 "44-7-50.

12 (a) In all cases where a tenant holds possession of lands or tenements over and beyond the
13 term for which they were rented or leased to the tenant or fails to pay the rent when it
14 becomes due and in all cases where lands or tenements are held and occupied by any tenant
15 at will or sufferance, whether under contract of rent or not, when the owner of the lands or
16 tenements desires possession of the lands or tenements, the owner may, individually or by
17 an agent, attorney in fact, or attorney at law, demand the possession of the property so
18 rented, leased, held, or occupied. If the tenant refuses or fails to deliver possession when
19 so demanded, the owner or the agent, attorney at law, or attorney in fact of the owner may
20 immediately go before the judge of the superior court, the judge of the state court, or the
21 clerk or deputy clerk of either court, or the judge or the clerk or deputy clerk of any other
22 court with jurisdiction over the subject matter, or a magistrate in the district where the land
23 lies and make an affidavit under oath to the facts. The affidavit may likewise be made
24 before a notary public, subject to the same requirements for judicial approval specified in
25 Code Section 18-4-61, relating to garnishment affidavits.

(b) If issued by a public housing authority, the demand for possession required by subsection (a) of this Code section may be provided concurrently with the federally required notice of lease termination in a separate writing.

(c) If the tenant refuses or fails to deliver possession when so demanded as provided in subsection (a) of this Code section, the owner or the agent, attorney at law, or attorney in fact of the owner may take possession of the premises by whatever means necessary and may bar the tenant from returning to the premises except upon tender of rent as provided by Code Section 44-7-52 or by order of the court as provided in Code Section 44-7-53."

SECTION 2.

Said article is further amended by revising subsection (a) of Code Section 44-7-52, relating to when tender of payment serves as complete defense, as follows:

"(a) Except as provided in subsection (c) of this Code section, in an action for nonpayment of rent, the tenant shall be allowed to tender to the landlord, within seven days of the day the tenant was served with the summons pursuant to Code Section 44-7-51, or within seven days from the date the landlord took possession of the premises as provided in subsection (c) of Code Section 44-7-50, all rents allegedly owed plus the cost of the dispossessory warrant. Such a tender shall be a complete defense to the action; provided, however, that a landlord is required to accept such a tender from any individual tenant after the issuance of a dispossessory summons or after taking possession of the premises as provided in subsection (c) of Code Section 44-7-50 only once in any 12 month period."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.